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THE ROLE OF THE COURT CLINIC IN THE ADMINISTRATION OF JUSTICE

*Lowell S. Selling**

The intrusion of psychology and psychiatry into the daily lives of the people of the United States and Europe during the past half-century has carried with it a certain change in the attitude of those who have to administer justice. Certainly, it is true that professional workers with the criminal have learned that every scientific method now at hand must be brought to bear upon the problem of preventing crime and curing the known criminal.

The utilization of the sciences of sociology, psychology and psychiatry and the application of the other branches of medicine to the problem of preventing crime has been one of the most dramatic parts of the criminological history of Austria, Germany, Britain, and the United States. Other countries have lagged behind. In this field, with the exception of the work of Alexander and Staub¹ and, perhaps, the work of Gross,² progress has been due, primarily, to the activity of legal administrators and their satellites in the United States.

It is hard to believe, but, nevertheless, true, that the current concept of the criminal, even in Great Britain, as late as the middle of the nineteenth century, made him a man apart, a gruesome sort of an individual, one who would not resemble the people whom the everyday busy citizen would know. For that reason, hanging was still popular for relatively mild offenses, and although it was not as prevalent as it was during the previous century when 135 offenses could result in hanging, nevertheless, respect for the life of the offender was reduced to an absolute minimum, just barely recognizing the fact that the offender was a human being.

The Italian sociologists at the turn of the century, and perhaps we should include here the alienist, Lombroso,³ but primarily, Ferri,⁴ and Garafalo,⁵ in their written works drew the attention of students of the judicial process to the fact that very often causes beyond the offender's control are responsible for his getting into

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¹Alexander, Franz, and Staub, Hugo: *The Criminal, the Judge and the Public*, New York, Macmillan Co., 1931.

²Gross, Hans: *Criminal Psychology*, Boston, Little, Brown & Co., 1918.

³Lombroso, Cesare: *Crime, Its Causes and Remedies*, Boston, Little, Brown & Co., 1918.

⁴Ferri, Enrico: *Criminal Sociology*, Boston, Little, Brown & Co., 1917.

⁵Garafalo, Raffaele: *Criminology*, Boston, Little, Brown & Co., 1914.

trouble. The sentimentalists could be led into the belief that the criminal was not responsible at all, for his misconduct might be due to an Act of God, to poor inheritance, to poor upbringing, or to mere accident so that one must consider criminal offenses in the most lenient light possible, even allowing the offender to go Scot-free. An illustration of this leniency is seen today in courts where horribly violent murderers are being acquitted in cases where each member of the jury believes that he (or she) would behave in the same way if placed in the same situation. This is particularly true when marital unfaithfulness is involved, i.e. when the ego of the offender seems to have been badly insulted, or where his life has been threatened.

The enlightened picture of the offender which came from Italy was bound to bear fruit as psychology, with the rise of the intelligence test, and as psychiatry, itself, became more enlightened. But during the transition of psychiatric thinking from the chains, subterranean cells and other inhuman controls of the mentally ill to the post-Pinel, Tuke and Conolly days,⁶ when the mentally sick were allowed at least to develop as normal humans, to get fresh air and sunlight and not to be restrained unless they were dangerous, to the present-day period when approximately fifty percent of the admissions to some hospitals are discharged as socially cured, there has been a parallel change in the attitude of the legal thinking about offenders.

In the first decade of the present century the tendency in criminologic thinking was more psychological, with greater emphasis on abstract testing, than upon psychiatric study devoted to clinical examination of the personality, and one result was that a number of reporters emphasized the hereditary nature of criminality.

Prior to the first World War, great stress was placed upon "family trees" with delinquent, antisocial or evil-minded trends. Perhaps the climax of this came when Goddard in his application of intelligence tests to delinquents and problem persons emphasized the fact that many sex offenders were in the high grade mental defective group, i.e. were morons, and the term moron came into common newspaper practice in discussing sex offenders, so that one could no longer use the term "moron" to describe a high grade mentally defective person.⁷

⁶Selling, Lowell S.: *Men Against Madness*, New York, Greenberg, 1940, pp. 50-90.

⁷Goddard, Henry Herbert: *Feeble-Mindedness*, New York, The Macmillan Co., 1916.

Paralleling the growth of the intelligence and other tests developed by the psychologists came the development of deep psychological interpretation springing from the studies of Sigmund Freud.⁸ The courts are not the place and probably never will be the place to apply the highly technical and doctrinal methods of psychoanalysis. The leading authorities on this subject in this country admit freely that the length of time needed to make a thorough study of an offender would impair the functioning of laws, although Alexander and Healy⁹ have demonstrated the value of the psychoanalytic and deep psychological interpretations of the personality in understanding the nature of the offender. Too many offenders, however, are mentally defective, come from an extremely inferior background, or have some other psychological, physical or social trait which would make a lengthy and expensive study of their personality wasteful except for research purposes and would hamper rather than help the court in its functions.

In understanding the relationship of psychiatry to court practice (for after all, the court clinic is merely an application of science to the law) one must survey very briefly the picture of the American judiciary as regards its attitude toward these still novel methods. It is the attitude of the judge which determines whether psychology and psychiatry shall be applied in his court. His attitude depends, basically, on what sort of person he is. If he is widely read and has some knowledge of what psychology and psychiatry can offer to him, he is going to be inclined toward the use of these sciences in his court. If he is suggestible, he is easily swayed into adopting new techniques if he has seen them adopted elsewhere. This is particularly true if there is newspaper or other community pressure placed upon him to adopt a clinic or to have psychological work done in his court. He may not know what it is all about but he will succumb to popular clamor. I think, to some extent, the formal education of the judge can be disregarded in this respect. A survey which the writer made as recently as 1944 revealed that with five exceptions, almost no information about the use of psychology and psychiatry in the courts has been made available to the law student. The University of Colorado is the greatest exception where Dr. Franklin Ebaugh consistently gave lectures on this subject.

But we expect our judges to be above the general cut of man-

⁸Freud, Sigmund: *Basic Writings*, New York, Modern Library, 1938.

⁹Alexander, Franz, and Healy, William: *Roots of Crime*, New York, Alexander A. Knopf, 1935.

kind. We give them shorter hours so that they will have time to read and study, we expect them to keep up-to-date in the developments of science, economics and other important subjects so that when cases come before them dealing with problems which can be solved by the application of science or of the pseudo-sciences they will be prepared mentally to comprehend the matters at issue. Unfortunately, this theory is not always true in practice. The mental capacity of our bench varies all the way from feeble-mindedness among some justices of the peace in obscure neighborhoods to the intellectual gigantism of Brandeis, Frankfurter, and Oliver Wendell Holmes. It appears, too, that the judge cannot assume leadership in a community that is not prepared for the application of modern scientific procedures. In the community where the only idea of the psychiatrist is that he must be insane in order to understand the insanity of others ("it takes a nut to catch a nut"), or where he is conceived of as a wild-eyed being too peculiar to be dealt with by ordinary mortals, the application of a scientific systematic procedure like a clinic would be impossible.

In practically all jurisdictions the judges have to be elected and re-elected and as a result of this single fact whole congeries of psychological factors must be considered. In brief, the judge is not going to do anything as a rule which would harm his chances of being re-elected. There are, of course, exceptions; men who are so highly respected by the community that there is no danger of their being deposed. But such judges are rarities, and I have seen judges who were so affected by moral issues and the desire to be entirely beyond criticism that they would brave public opinion or even break off friendships for the sake of "doing the right thing." Oftentimes, such judges are conservative and the idea of putting a new procedure into their court, the value of which may not be entirely proved, would not seem to be the right thing to do.

As a general rule, the systematic injection of psychological and psychiatric procedures into the court results from two forces. First, a dramatic case may bring to public notice the fact that the court cannot function without psychiatric help. This is true especially in communities where there has been a particularly abhorrent sex offense and medical evidence is brought in to show that the offense might have been prevented. The second strong force is also a dramatic one, that is, the idea that it might enhance the prestige of the judge or judges to bring new proceedings in to

show that they are modern. Perhaps the idea starts with only a desire for window dressing. But it has been shown in those communities where court clinics have been started that the window dressing turns out to be part of the main sales proceedings. And the writer has seen during the ten years that he was connected with the Psychopathic Clinic of the Recorder's Court in Detroit a change in attitude on the part of some judges from frank skepticism to an unwillingness to pass sentence upon certain types of offenders without having a thorough psychological, medical, and psychiatric evaluation of that offender. One cannot generalize about the attitude that judges will assume toward clinics once they have been established. Here again, they run the gamut from the rather unintellectual jurist who believes that the reports coming from the clinic are all balderdash because he cannot comprehend them, up to the ambitious, modern and self-secure judge who feels that, while clinical procedures are not as exact as those of engineering, still, in the hands of a skilled and highly selected staff, they can be depended upon, and he, himself, would not care to pass judgment on an offender without having complete evaluation of that offender.

THE BASIC TASK OF THE CLINIC:

The basic task of the clinic is to enhance the capacity of the judge. Just as we believe that a panel of judges is more secure in its decision of guilt and innocence than would be a single judge, so the introduction of a number of specially trained examiners into the problem should reveal things that the judge himself could not find out without this special training that is required of his specialists in the clinic. Our knowledge of motives has been greatly increased through the psychoanalyst's study of human behavior and through the psychologist's study in motivation beginning with the lower animals and reaching up the evolutionary stairway through childhood into maturity. No longer does the old fashioned police tenet of a limited number of motives for a crime hold true. It is true that in many police forces the homicide squad believes that all murders are committed for money, love or revenge. But the psychologist has broken down this concept. He wants to know why does this amount of money mean so much to the offender; what was it that made a man commit murder for a mere five dollars; or why a man who seemingly was sane should

kill his divorced wife whom he hasn't seen for years. Certainly, here was not love.

As a general rule now interpretations can be made and the thinking patterns of types of offenders can be brought together as a basis for outlining treatment for them and for preventing cases similar to theirs. This part of psychology and psychiatry is indeed of great value to the judge. It is pretty well conceded today that the punishment should fit the offender rather than the crime, that the sorting out of types of offenders must not be made by the jury but by the treating authorities. In other words, it is quite possible that an individual found guilty of manslaughter may require permanent segregation from the community because of the uncontrollability of his impulses, while a first degree murderer, when his motives, background and the rest of the clinical picture become known, may very well have served the community by his act and be highly unlikely to commit another of a similar nature.

The major conflict between medicine and law at the present time arises from inflexibility of statutes which, when applied by an inflexible mind (and unfortunately, some judges have this type of mind) leaves medicine very little room for action. Our growing knowledge of personality deviations and differences in motivations implies a different treatment for each type of case. Sometimes this treatment is social, sometimes it is medical or psychiatric. But certainly, the community wants and is entitled to have protection against criminals. It wants from the police, the juvenile authorities, the courts and the corrective authorities, assurance that individuals are not going to commit offenses after they have been in trouble once. And it wants from scientists whether they be in hospitals, clinics, connected with schools or hospitals, definite application of their sciences to the prevention of offenses before they are first committed, and here a hard and fast sentencing rule would be definitely harmful.

Anyone familiar with the thinking of the criminal realizes that he figures first of all—if he gives any thought to it at all—that he will not be caught; and second, if he is caught, that he will be given a specific sentence, and that all he has to do is to weigh that amount of sentence against the amount of money he will get from his crime or the amount of satisfaction he can get from the act which he is about to commit. Many old time burglars used to figure the number of years they would have to serve as against the probable haul from the particular installation they were about to "crack."

So the judge employs the court clinic to give him some idea as to the kind of person he is dealing with, why he committed the offense, if it be possible to determine the cause, and last, what can be done, if anything—realizing, of course, the limitations of psychiatric knowledge—to keep this person from committing another offense.

The purpose of judicial procedure, particularly the sentencing procedure, has been divided into three categories: first, the prevention of further offenses by the offender, himself; second, the handling of the case in such a way that others may be deterred; and third, the satisfaction of the community in justice well carried out. It is only the first, in all honesty, that needs to be stressed, for in this writer's mind the idea of deterring offenders by strict sentences, by hard sentences, or by special handling of notorious cases, seldom results in the deterring of another person from a criminal act. The psychological trait of rationalization, which means the finding of an acceptable excuse for unacceptable behavior and which is carried out by the subconscious mind, equals any great influence upon the offender's mind by discipline which has been applied to somebody else. First of all, he feels that he can avoid the penalty of his act if he is caught, and he doubts that he will be caught; he feels that by the employment of a criminal lawyer he can evade the law; in other ways he finds excuses for himself so that he believes that he will either be allowed to go Scot-free or get a minimum penalty. The person who has murderous ideas does not, in my experience, identify himself with a man who has just been given a sentence of life imprisonment. In his case his desire to kill is different, it is more necessary and is more excusable.

The other function of the sentence, to satisfy public demand and to give security to the community, is very often incompatible with the procedure of trying to make the man who has committed an act law-abiding. Long sentences may be demanded by ignorant or prejudiced newspaper men. The role of the newspaper in sentencing cannot be discounted for it probably molds public opinion. Except for a few persons in the neighborhood where the crime has been committed, in large communities very little is known about the amount of crime or the nature of any particular crime except as it is revealed through the newspapers. A venal newspaper man, and there still are a few, a newspaper man who is more interested in a story than in the attainment of justice, can defeat the whole workings of the court system including that of the clinic. So it becomes the function of the clinic to educate the public through

the newspapers and to get the cooperation of the papers. This is easy when competition between the newspapers is not too great. While the newspaper proprietors, themselves, frown upon syndicating news stories, the head of the court clinic may find that this is the best thing that can be done in order to get a completely harmonious attitude on the part of the various parts of the public served by the different papers. Newspaper men are individualists; perhaps it is well that they should be for it is that which makes newspaper reading interesting. Nevertheless, they are not trained to understand the nature of the sentencing procedure, particularly the scientific aspects of the problem. The writer must admit that during the ten years he was with the Psychopathic Clinic of the Recorder's Court in Detroit he observed some change in the attitude of editors of particular newspapers. When the editor is sympathetic, anxious to see what can be done and has some knowledge of modern psychology and psychiatry, even though it may not be a technical knowledge, he seems to be quite willing to give the scientific branch of the court free reign and not to criticize unless there has been obvious negligence in the handling of the case or obviously slipshod work done on the job. In fact editors have disciplined careless reporters who made light of statements contained in psychiatric reports because it was their way of covering up their lack of comprehension of what the psychiatrist was trying to do.

At the same time that the clinic attempts to give the judge the information he should have in order properly to carry out his job, the clinic is also educating the community and the court. In the early days of the court clinic it is often necessary to define every term used in a report; even such rather obvious terms as "insanity" have to be defined because of the particular use or construction that is given to the word as it is applied to a particular case. In the same jurisdiction different judges may have different conceptions of insanity when they get beyond strict interpretation of the legal test as found in the statutes. In consequence, if the accused is in a period of remission, that is, is perfectly sane at the present time, the psychiatrist must supply a detailed description of his mental state at the time he committed the crime. The objective here is to enable the judge to see why the offender committed the crime, why he was subject to the mental state which existed at the time of the act and the likelihood of recurrent episodes. When these questions can be determined the information is of great value to the judge in

reaching a proper and scientific judgment concerning the best disposition of the offender.

The free publication of clinic reports prepared for the use of judges has its drawbacks. Certain information which would harm the individual when he has served his time or if he should be put on probation has to be withheld from such a written report and conveyed to the judge perhaps by word of mouth. Yet, on the other hand, these reports can explain to the judge and to the layman through the medium of the newspaper something about modern scientific interpretation and treatment of the offender. He can thereby learn better to serve as a juror, to be less critical in his attitude toward the offender and more critical in his demand that the court function as a crime preventer. On the other hand, since the judge is interested in preventing crime, the withholding of these reports from the public may seem to be necessary in many cases, and it was determined at one time by the Traffic Division of the Recorder's Court of the City of Detroit that no reports should be given to the newspapers lest some matter which might be misinterpreted to the injury of the offender become public property.

CLINIC PROCEDURES:

How can the clinic best operate in order to be of maximum service to the bench? The answer to this question must be different in different communities but the overall answer is that the personnel of the clinic must be of the highest type obtainable, must have security in their jobs, freedom from political interference and must live in an ivory tower so far as contacts with attorneys, relatives of offenders, and other persons connected with the court cases are concerned. To my knowledge, no clinic personnel have ever been found guilty of accepting a bribe for passing on improper information but that possibility must always exist as long as we have human nature to reckon with. But it can be largely guarded against by careful selection of personnel, particularly workers who have pride in their training and achievement. For this reason, the workers in a court clinic should be paid high salaries. I have felt that perhaps they deserve higher pay than the judges because they work longer hours, have more extensive expense in securing their training and could more easily conceal any illegitimate activity. In the Recorder's Court Clinic the level of salaries, with the exception of that of the director, was above the average for similar jobs in the community, in many instances by as much as fifty percent.

This is only one form of insurance, but careful selection completes a guarantee that the clinic will be an impartial, flexible agency for the assistance of the judiciary.

Clinic personnel differs in different communities. In the early days of psychiatric assistance to the courts it was possible for the psychiatrist to come in, sit next to the judge on the bench in selected cases and give an off-the-cuff opinion which had some value. After Doctor Healy had established the Juvenile Psychopathic Institute and Herman Adler had adopted it into the division of the criminologist in the State of Illinois, court clinics developed in the same way that mental hygiene clinics and child guidance clinics have developed. Here there was a team of psychologist, social worker and psychiatrist each utilizing his own specialty with the result that individual investigations were woven together into the final report as the result of the staff meeting. At the head was the psychiatrist because of the fact that his background was supposed to cover a knowledge of sociology and psychology and in view of the fact that psychiatry was the medical science of dealing with behavior problems. Psychology alone could only give description; sociology alone could give only a past history with possible interpretation; and psychiatry alone could diagnose and offer possibilities for treatment of the case.

The role of each member of the clinic staff soon became different in each clinic. For instance, in New York the psychologist gave only intelligence tests to select defectives, whereas in Detroit the psychologist not only gave intelligence and other tests but also took a psychological rather than a social history. In the Detroit clinic the social worker was eliminated because the probation officer who made the home investigation also took the history and secured information about previous arrests and other data from agencies not connected with the court. Thus his finding could be correlated with that of the psychologist so that the psychologist and psychiatrist together would make a team when the probation officer's information was at hand. In some aspects of the Detroit clinic, although the psychiatrist still holds his general administrative superiority, he has a subordinate role to the psychologist. This is particularly true in the Traffic Division where the need is for psychomotor tests of the person's ability to drive and of his capacity to operate a motor car, and for testing his knowledge of traffic laws and other traffic features. These problems are not strictly psychiatric and the psychiatric consultant tends to have a more nominal function in

passing upon the man's general mental and emotional condition except in cases where the offender proves to be primarily a psychiatric problem. For instance, if a driver has poor vision, the psychiatric reaction to the vision is less important than the psychological findings of poor depth perception or other impairment of visual capacity.

Factors outside of efficient clinic function sometimes play an important role. The amount of the budget allotted to the clinic will determine how large the personnel can be, how efficient they can be and what type of person can be hired with the money available for salaries. The director of a clinic is not interested in securing mechanical equipment for testing purposes if he cannot examine drivers. If his services are never given before the offender is convicted he has no need for such equipment as the photopolygraph or polygraph (lie detector). If he is operating on a limited budget, or the clinic is required to handle an excessive number of cases, such valuable testing procedures as the Rorschach test, tests of mechanical aptitude, X-rays, and laboratory work must be eliminated. In the Detroit clinic it was our policy to take every case referred and, if the case load became too heavy, to sort out those cases which had mandatory sentences facing them, cases in which the clinic would be of little value in prescribing treatment, or where because of feeble-mindedness or for some other reason the offender could not profit by a thorough survey, and give them only a brief survey.

Although the Detroit clinic's procedures are not typical of those throughout the country, to describe them will give an idea of what procedures are necessary and are most valuable in assisting the judge. When an offender is referred to the clinic, the clerk of the court sends down what is known as a "referral slip" indicating that the judge wants the man examined. If the offender is on bond, an appointment is made at that time and the man returns at a time convenient for himself and the clinic. If he is in jail, he is brought over at the earliest possible moment to begin the examinations. All cases are routinely given a blood test for syphilis because even late syphilis can affect a person's thinking and the presence of syphilis is highly suggestive of, first of all, rather loose living, and second, of negligence, in view of the fact that syphilis is curable. Sometimes cases of paresis are thus detected before they are even given a psychiatric examination.

After the blood test, a thorough physical examination is made

because it is known that one's background can be determined by how he keeps himself and the presence of some diseases would eliminate the person as possible perpetrator of certain crimes. For instance, the clinic revealed to the judge that a man could not have committed a burglary of which he was accused by virtue of the fact that both hands were partly paralyzed and he could not have climbed through the window which was over his head. Sometimes persons are partially deaf and testify unfavorably against themselves because they do not understand the prosecutor's questions. Sometimes offenders compensate for their physical ailment by committing crimes. So it is necessary to have a good physical examination in order to understand the man as he goes through the rest of the routine.

Before anything else is done, the patient is given an intelligence test. Sometimes this can be done by simple "self-administering" forms which are given to the man and which he can fill in himself. This is not satisfactory with illiterates and others whose reading ability is limited or who are antagonistic toward the clinic and will not cooperate. In such cases or in cases where the results of the self-administering tests are doubtful, individual tests such as the revised Stanford-Binet, Pintner-Paterson Performance tests, or the Wechsler-Bellevue test are administered. The psychologist, being a trained person—for we have always required a Ph.D. except for our temporary appointments during the war—selects the appropriate test for the individual case. After the intelligence test, the patient is given a twenty-two-page history form to fill in. This covers everything in his life and goes back even to his grandparents. His arrest record is present, his schooling, his work record. In other words, the clinic attempts to get as complete a life history as it is possible to obtain in the limited time available.

Next the psychologist, who is trained in clinical procedures, interrogates the patient from the history form. Gaps are filled in and the worker bears in mind that where the patient leaves gaps in his history they often cover material which is critical, which indicates complexes, which may be important in evaluating the case. So the gaps in the history rather than the data presented often offer the most fruitful leads toward personality study. During this time of taking and checking the history the worker is on the alert to get an impression and to form an opinion of the patient's personality. The way he answers questions, his tendency to hide facts, his arrogance, or his irritability, all these traits and more are investigated.

After the psychologist has collected as much data as possible during additional tests of personality, of education or other features, he contacts the probation department and other agencies who know this person or his family in order to get a complete picture. Finally, when this picture has been assembled and developed, it is placed in the hands of the psychiatrist who makes the psychiatric examination. When all of these procedures have been completed, the workers who have been concerned in the case discuss their findings and interpretations. Finally, the psychiatrist writes a report to the judge which in a simple case would be as follows:

PSYCHOPATHIC CLINIC OF X COURT

To: Judge John Doe,

Judge of the Court of Superior Sessions.

Subject: Henry Feetfooter

Docket No. 4744-C

This twenty-eight year old white American male was examined for about eight hours in the clinic. He was given the usual physical, psychological and psychiatric surveys and information was obtained from the Detroit Police Department, from the probation department of the Criminal Court and from the Welfare Department of the City of Detroit, and from the probation departments of courts in the cities of Chattanooga, Tennessee, and Oakland, California. The records of the Receiving Hospital were checked in view of the fact that the man had a spinal fluid examination in that hospital two years ago.

Physical Evaluation

This is a well developed, well nourished white man who shows no signs of malnutrition. He has no physical ailments of any significance. His blood test is negative. His personal history of disease is of no significance except that he had mumps with orchitis (inflammation of the testes) when he was eight years old. This has some importance in view of the fact that he has been previously arrested for a sex offense.

Social Evaluation

He was born in Chattanooga, Tennessee, was reared by his parents till coming to Detroit two years ago. There was some domestic friction, the father was mildly alcoholic and beat the boy. He had some feelings of rivalry between himself and his sister who he feels was the favorite child. At early age he showed excessive sex proclivities and was severely punished because he had

accosted a girl in a high school swimming pool into which he sneaked when the door to the boys' locker room was accidentally left unlocked during a girls' swimming period. The discipline in this case was taken care of at home and he was not in further trouble till he was arrested for pandering in Oakland, California. Here he was given a suspended sentence; apparently the evidence against him was very weak. His schooling was adequate as he finished high school at the age of eighteen. He is unmarried, his church attendance has been sporadic, and he shows no marked religious interests. Recreationally, he seems to have ordinary interests, his primary summertime activities playing tennis; in winter he does frequent pool halls occasionally but the names of those that he gives us were checked and were not found to be of an inferior nature but largely are habituated by working young men and not delinquents.

Psychological Evaluation

This man has average intelligence by tests. There is no indication of a specific educational deficiency.

Psychiatric Evaluation

The survey of this man reveals that he comes from a family which is rather inferior from the standpoint of education and social adjustment. Other members of the family have been in trouble and loose sexual ideas are common in the behavior of the male members of the family. He informs us that he was close to an uncle who served time in a penitentiary for sexual offenses and while there is no indication that this man is physically over-sexed, his whole background seems to have developed in an atmosphere of lax behavior along these lines. In his discussion with the psychiatrist he showed little respect for women and is quite bold and rather psychopathic in his attitude that he will "take what he can get." In addition, we find that his aggression was stimulated by a marked hatred of his father whose alcoholic bouts resulted in his treating the patient rather brutally as a child and causing tense feelings of resentment and antagonism toward his father. His father disciplined him very severely and, the man thinks, out of proportion to the seriousness of his offense, his first misbehavior being while he was in high school.

Recommendation

In view of the fact that this man is making an adequate work adjustment and the psychiatric examination indicates that there

is considerable likelihood that his thinking about sex can be adjusted, we suggest that this man be placed on probation with the condition that he secure private psychiatric treatment.

* * *

There is nothing in this report which is binding upon the judge. He does not have to follow the psychiatric recommendation. There is nothing in any statute, so far as this writer is aware, to indicate that the psychiatric opinion is mandatory. This is as it should be, because sometimes information is not available to the clinic which the judge might know, although careful clinic investigation will reveal everything necessary for providing proper treatment of the case. The report does provide a good guide for the judge to go by. Inasmuch as a person such as the above seems to be a good treatment risk, it would be a shame to spend the community's money in institutionalizing him. It is quite customary in courts where the clinic has been established for some time for the judge to send for the psychiatrist and for the record. He may want to read the whole record himself but as a rule he wishes to have it summarized verbally in more detail by the psychiatrist or to have some part amplified where he is doubtful. It may seem to him that, from the man's police record, he is a poor treatment risk and the judge, therefore, would like to have the psychiatrist explain so far as he can to a layman how he has arrived at the conclusion that treatment in the community would be of value and why it would not be wiser to lock the man up away from law-abiding people so that he cannot commit any more offenses.

TREATMENT

Since the goal of clinic work is to make the offender law-abiding, the treatment procedures invoked by the clinic must be prescribed within the limits of the sentencing power of the judge and at the same time must bring to bear what scientific knowledge of psychiatric treatment makes available within the limits of the rather orthodox stereotyped sentencing which the statutes permit. This means that treatment is applied either "externally" through the recommendations of the clinic, or "internally" by the clinic itself when cases are referred back to it by the judge for treatment purposes, and can be widely distributed—from a simple pat on the back to the discharged offender to permanent segregation of the chronic offender. Since psychiatric knowledge is by no means complete, there are some cases which cannot be treated through the therapeutic devices

at our disposal. These cases are usually repeaters or offenders who show marked psychopathy but cannot be committed to a mental hospital for proper treatment because of the limitations of the statutes providing for the hospitalization of insane offenders. It is difficult to predict that any particular person will be unable to take his place among the rest of mankind but the psychiatrist, with the help of his staff, is able to detect in some individuals recalcitrance and an attitude toward obeying the law which makes the offender's ability to make an adjustment in the future highly improbable. Even if the recommendation of permanent segregation from the community is made, the psychiatric staff realizes that the psychiatrist in the penal institution is able to recommend the discharge of such a person if at some time in the future examinations conducted in the institution reveal that he is likely to discontinue his antisocial activities.

Some cases are self-limiting. Although the public becomes very much disturbed over sex offenders because of the rather bestial nature of sex offenses, most minor offenders of this group recover rather spontaneously from their tendencies toward exhibitionism, window-peeping and even tampering with small children. When it is brought to their attention how the community looks upon them, and when the effect of a sex offender hospitalization law is made clear to them with the implication that they may be confined for many years, even for life, this seems to have a deterrent effect. A number of sex offenders are found to be psychoneurotic and these can be treated through psychiatric means. We have been informed that the New York clinic actually carries out psychiatric practice in treating offenders but most clinics at the present time refer such persons to practicing psychiatrists in the community, usually recommending to the court that the patient be kept on probation while the treatment is being carried out and that he not be discharged from probation until such time as the psychiatrist who is attending him decides that he is no longer a menace to the community.

Psychiatric probation as against probation supervised by probation officers, relatively untrained on the scientific side, has a markedly favorable effect in the case of many minor offenders, young offenders and those having lesser psychiatric ailments which are susceptible to proper treatment. The psychiatrist's deeper knowledge of the mechanisms and causes of antisocial behavior puts him in a particularly good position to render service in the

matter of actual treatment of the offender himself, and sometimes daily visits to the clinic psychiatrist are necessary in order to produce social recovery. Other cases can be carried if seen only once a month and still others require treatment and interviews at varying intervals.

The use of corrective measures such as sentencing the offender to a penal institution is always a matter of last resort. Very few offenders, unless they are only superficially inclined to crime to begin with, respond to intramural treatment. In the first place they lose their contacts with the community, and oftentimes if the sentence is long enough they actually lose so much of their technical skill or trade that they never find themselves when they are returned to society, and so deteriorate further and further until they become chronic offenders or chronic alcoholics. Within each group of offenses each individual seems to need disciplinary and therapeutic measures which are entirely attuned to his own personality. Two persons convicted of similar offenses, even two individuals who took part in the same crime are not necessarily treatable by the same means. In the past courts have been prone to give similar sentences for similar offenses. From the standpoint of returning offenders to the community as lawabiding persons (and it must not be forgotten that practically all persons sentenced to corrective institutions are returned to the community) stereotyped sentences must be frowned upon. Naturally, the psychiatric clinic is not in any position to suggest the exact time which must be served in corrective institutions. Usually, it is sufficient to say in the court clinic report that if a man must be sentenced, that if the total picture is such that he cannot be returned to the community either because of public sentiment or because he needs a "cooling off" period, the time when he will be best able to return to the community should be determined by the psychiatrist in the penal institution. The latter can best decide when the appropriate moment has arrived for the offender's discharge or parole. In view of these circumstances, the widely used indeterminate sentence is an advantageous method of disposition.

CONCLUSION

To conclude, then, we may say, in respect to the purpose, functions and value of the court clinic that:

1. The court clinic has been created to provide the judge with the scientific knowledge he needs to understand the defendant, to

assess his sentence and to chart the course best calculated to make the offender law-abiding in the future.

2. The value of such a clinic depends upon the integrity of the bench, the ingenuity of the particular judge in finding uses for the clinic, and the ability of the clinic to demonstrate its worth to the judge.

3. The clinic has a valuable educational purpose in showing what can be done with offenders through the medium of its reports and recommendations.

4. The clinic can recommend and in some instances can carry out various types of treatment procedures designed to help an offender become well adjusted in the community.

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